

### REMARKS

Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 36, 40, and 42 are amended herein, and claims 49-51 are now cancelled. Independent claim 52 has been newly added. Support for the features added to claims 36, 40, and 42 is provided by at least Fig. 8 and its accompanying description on page 34 of the specification. Support for the features recited in new claim 52 is provided by at least Fig. 13 and its accompanying description on page 40 of the specification.

Claims 36, 40, and 42 stand rejected, under 35 USC §103(a), as being unpatentable over Sakata (US 4,729,640). Claims 49-51 stand rejected, under 35 USC §103(a), as being unpatentable over Sakata in view of Applicant's description of the related art. To the extent these rejections are deemed applicable to amended claims 36, 40, and 42 and new claim 52, Applicant respectfully traverses.

As defined by amended claims 36, 40 and 42 and new claim 52, the diffractive optical element according to the invention is an optical element utilizing a diffraction phenomenon. By contrast to the claimed invention, the optical element disclosed by Sakata in Fig. 28B is not a diffractive optical element, but is an optical element having a light switch function (Sakata col. 25,

lines 21-23). Sakata also discloses that the inclination angle of the triangles, illustrated in Fig. 28B, is appropriately determined from a condition of total reflection, as derived from Snell's law (column 26, lines 34-36). In other words, the optical element of Sakata operates on the basis of diffraction and reflection of light, which take place under a condition of total reflection and according to Snell's law.

Sakata neither teaches nor suggests a diffractive optical element having a relief pattern structure that can diffract light, as recited by Applicant's claims 36, 40, 42, and 52. Moreover, Sakata does not teach a relationship for the diffractive index of the liquid crystal layer 2 and substrate 3 corresponding to the diffractive index relationship recited in the claims.

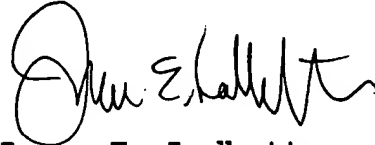
In accordance with the above discussion, Applicant submits that Sakata does not disclose or suggest all of the features recited in claims 36, 40, 42, and 52. Therefore, allowance of claims 36, 40, 42, and 52 is warranted.

In view of the above, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone

the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



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